IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

R.S.A. No. 2558 of 2005
Date of decision March 8, 2007

Som Nath

.....Appellant

Versus

Amar Chand and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL

Present:- Sh. O.P. Nagpal, Advocate
for the appellant.

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Viney Mittal, J (Oral)

A suit for partition by way of separate possession filed by the plaintiffs has been decreed by the trial Court. The appeal filed by the defendant has failed before the appellate Court.

Both the Courts below have held that parties are co-shares of the suit land and the land in question had been allotted to them. At the time of allotment of land, Ravi Dass Mandir was in existence, having been established in the year 1955. In these circumstances, the land of the aforesaid Mandir has been excluded and the remaining land has been ordered to be partitioned between the parties.

The learned counsel for the defendant-appellant has argued that the land of the Mandir could not have been excluded from the share of the defendant and it was for the plaintiffs to have left the land of the Mandir, if they so desired.

I do not find any merit in the contention of the learned counsel. Both the Courts below have found that the Mandir was established in the year 1955 i.e. much earlier to the allotment of the land to the plaintiffs and defendant No.1. In these circumstances, if the allotment had been made

when the Mandir was already in existence then the rights of the parties for the allotted land have to be subject to the existence of the Mandir.

Nothing has been shown that the findings of fact recorded by the two Courts below suffer from any infirmity or are contrary to the record.

No question of law, much less any substantial question of law, arises in the present appeal.

Dismissed.

(VINEY MITTAL)
JUDGE

March 8, 2007
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